

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

RYM-2018-835

Application Number

10/761,207

Filed

January 22, 2004

First Named Inventor

OI

Art Unit

2193

Examiner

Tuan A. Vu

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ Applicant/Inventor

☐ Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)

☒ Attorney or agent of record 41,426
(Reg. No.)

☐ Attorney or agent acting under 37CFR 1.34.
Registration number if acting under 37 C.F.R. § 1.34 _____

Signature

Raymond Y. Mah

Typed or printed name

703-816-4044

Requester's telephone number

January 26, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*

☒ *Total of 1 form/s are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2.

STATEMENT OF ARGUMENTS FOR PRE-APPEAL REVIEW

The following listing of clear errors is responsive to the Final Rejection mailed September 24, 2008 and Advisory Action mailed January 7, 2009.

The Advisory Action's refusal to enter the claim amendments of Applicant's

Amendment/Response filed December 24, 2008 is a clear error.

The Final Rejection rejected claims 1-60. In Applicant's Amendment/Response filed December 24, 2008, claims 1-16, 21-24, 29-50 and 52-60 were canceled and each of claims 17-20, 25-28 and 51 was re-written in independent form by incorporating the subject matter of its respective base independent claim and any intervening claim. The substance of each of claims 17-20, 25-28 and 51 remains the same. All other claims have been canceled.

The cancellation of claims 1-16, 21-24, 29-50 and 52-60 clearly reduces the issues for appeal. For example, the rejection of claims 52-60 under 35 U.S.C. §112, first paragraph in the Final Rejection no longer needs to be reviewed since these claims were canceled in Applicant's Amendment/Response filed December 24, 2008. Moreover, the substance of claims 17-20, 25-28 and 51 (each rewritten in independent form in Appellant's Amendment/Response filed December 24, 2008) remains the same and thus clearly does not raise any new issues requiring any further consideration and/or search. The following portions of this Brief therefore involve the non-cancelled claims. The following portions would be applicable irrespective of whether claims 17-20, 25-28 and 51 are in independent or dependent form.

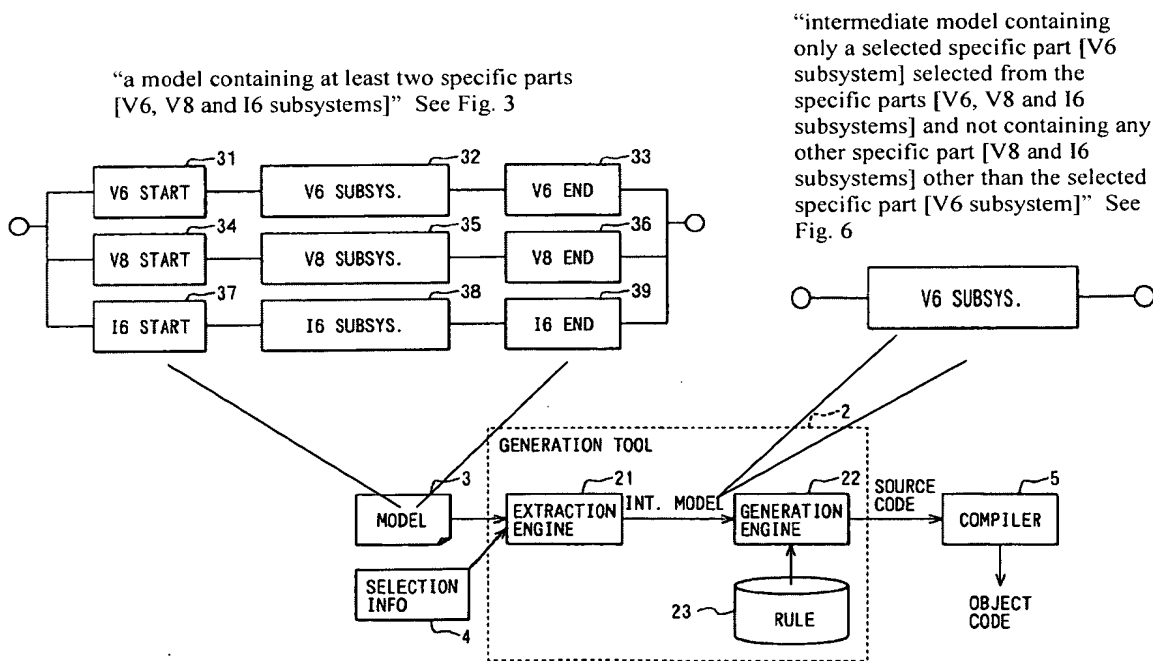
The Final Rejection fails to establish that claims 17-20, 25-28 and 51 are "obvious" under 35 U.S.C. §103 over Hanselmann in view of admitted prior art (APA).

In order to establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. The combination of Hanselmann and APA fails to teach or suggest all of the claim limitations. For example, Hanselmann fails to teach or suggest following limitations of claims 17-20: "deletion and generation means for generating the source code from an intermediate model, which is generated from the model acquired by the model acquisition means based on the selection information acquired by the selection information acquisition means, the intermediate model containing only a selected specific part selected from the specific parts and not containing any other specific part other than the selected specific part." Similar comments apply to independent claims 25-28. Hanselmann also fails to teach or suggest following limitations of claims 51: "searching means for searching the combined model containing the information for generating source code associated with the plurality of parts to find part-specific information for generating the part-specific source code associated with the specific part matching the selection information acquired by the selection information acquisition means; [and] intermediate model generation means for deleting portions of the information for generating

source code associated with the plurality of parts from the combined model to form an intermediate model, the intermediate model containing only information for generating the part-specific source code.”

The subject matter of the present disclosure relates to generating an intermediate model from a model including a plurality of variations or parts by deleting unnecessary parts while limiting to necessary parts. Source code for a specific variation may thus be generated. The plurality of variations may include engine types (claim 17, 25 or 51), destination countries (claim 18 or 26), intended uses (claim 19 or 27), and regulations according to domestic laws of countries (claim 20).

By way of example, an acquired model 3 contains at least two specific parts, such as subsystems corresponding to engine types V6, V8 and I6. An intermediate model is generated from the model 3 to only contain a selected specific part(s) and to exclude a non-selected specific part(s). For example, the following diagram (formed from Figs. 2, 3 and 6 of the application) illustrates that a first intermediate model may be generated from the model 3 containing at least two specific parts V6, V8 and I6, the first intermediate model (“INT MODEL” in the following diagram) containing selected specific part V6, but excluding non-selected specific parts V8 and I6 (i.e., specific parts other than the selected specific part).



A second intermediate (“INT. MODEL” illustrated above) model may be generated from the same model 3 to contain selected specific part V8, but to exclude non-selected specific parts V6 and I6 (i.e., specific parts other than the selected specific part) based on different selection information 4. Also, a third intermediate (“INT. MODEL” illustrated above) model may be

generated from the same model 3 to contain selected specific part I6, but to exclude non-selected specific parts V8 and V6 (i.e., specific parts other than the selected specific part) based on different selection information 4. Source code may be generated from the intermediate model (whichever intermediate model is generated) by the generation engine 22.

Through the above-noted limitations, the invention of claims 17-20, 25-28 and 51 may provide the benefit of reducing the volume of the resultant source code and consequently reducing the size of the compiled object code. Moreover, convenience can be increased by allowing information associated with generating source code for various parts to be provided in a combined model having a plurality of parts, and allowing selection of a specific part.

Hanselmann discloses generation of codes for programs mounted in various ECUs using a base model. In contrast to the above-noted claim limitations, Hanselmann allows control widgets to be assembled for a single simulation model that is not even associated with a particular hardware. Indeed, Hanselmann merely describes building a simulation of a single model for a controlled object using various cockpit widgets, without targeting specific hardware. (See, e.g., page 132, col. 1 under heading “4. RCP Software Tools”.) Accordingly, if anything, Hanselmann teaches against the invention of claims 17-20, 25-28 and 51, which is directed to a specified specific part selected from among specific parts for generating an intermediate model from which source code may be generated.

Hanselmann fails to begin to even appreciate the benefits from multiple specific parts being contained in a model for a development and selection of a specific part therefrom. In the introduction of page 129 of Hanselmann, the recitation of “type of use (sporty, long-haul, city driving)” merely explains usage as the background of development, while mentions of “improve fuel efficiency and emissions... Regulations...” only explain a requirement or target for improvements, without disclosing specific parts, one or more of which may be selected with other specific parts excluded in order to generate an intermediate model from which source code may be generated. Steps 3-5 of page 129 make reference to “simulation” and “real-time” but fail to provide any teaching or suggestion of selecting a specific part from multiple parts, and thus fail to teach or suggest, for example, “acquiring selection information... capable of indicating selection of a specific part among the specific parts” as claimed. The “I/O block libraries” specified in step 4 interface with a real product at a real plant and do not select between part types.

Fig. 5 and page 132 of Hanselmann disclose that widgets (graphical elements) such as gauges, sliders, bar graphs and numeric displays and inputs are available to be “drag-and-dropped” onto a window. However, there is no indication regarding deleting by the drag-and-drop. It appears that Hanselmann’s drag-and-drop is used for a user to only add necessary parts. In any event, Hanselmann’s “drag-and-drop” is not related to acquiring selection information capable of indicating selection of a specific part among a plurality of specific parts to generate an

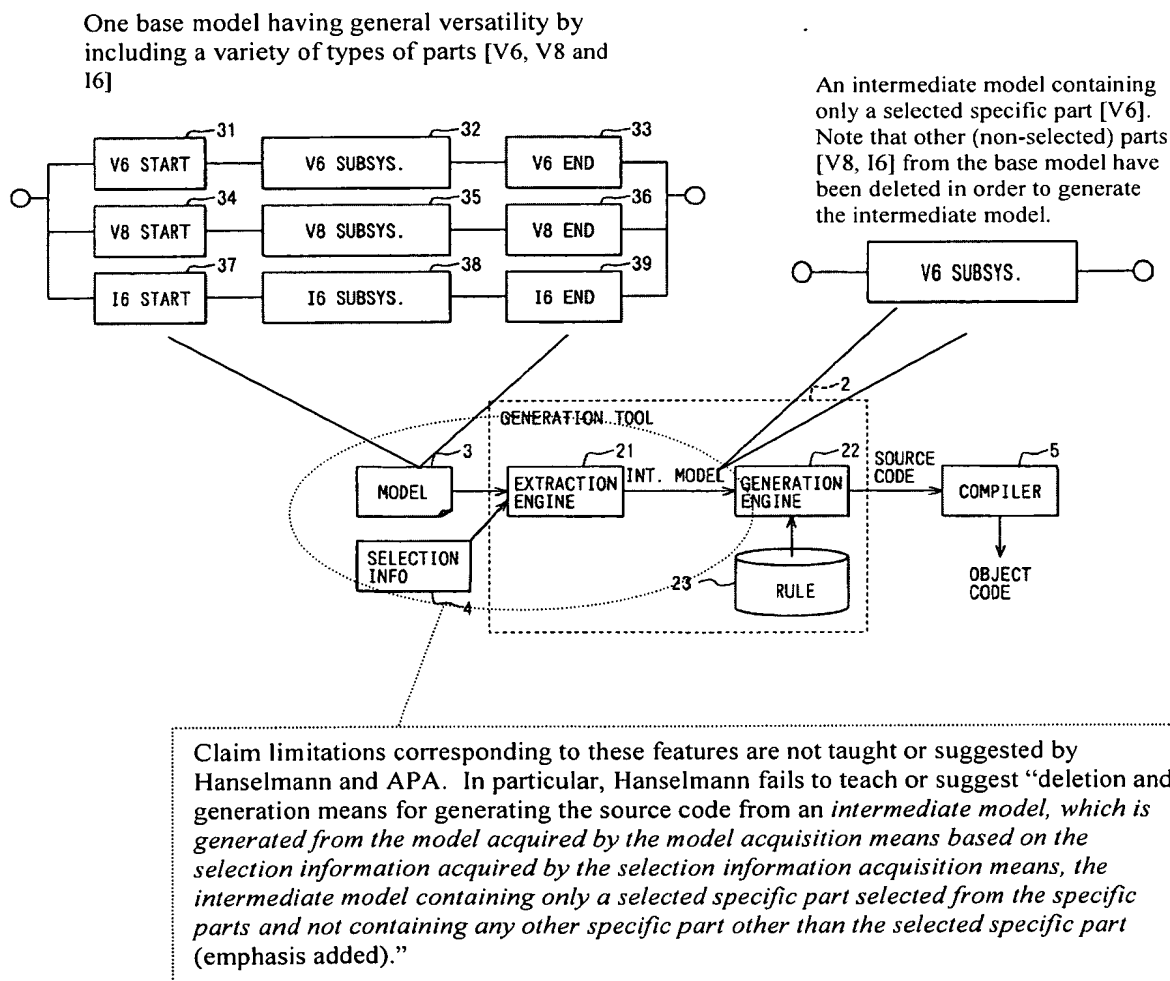
intermediate model containing only the selected specific parts and not the other (non-selected) specific parts. These non-selected specific parts have been deleted with respect to a base model in order to generate the intermediate model containing only the selected specific parts.

The combination of Hanselmann and APA fails to appreciate:

(i) Providing one base model having general versatility by including a variety of types of parts and narrowing the base model down to an intermediate model functioning as a specific type; and

(ii) Deleting the unnecessary parts from the base model including all the parts based on the external information to thereby generate an intermediate model.

By way of example, these differences are explained graphically below using Figs. 2, 3 and 6 of the application – with added comments.



Page 5 of the Office Action admits that Hanselmann does not disclose the claimed selection information acquisition means. Based on this admission, it necessarily follows that Hanselmann also does not disclose deletion and generation means for generating the source code

from an intermediate model, which is generated from the model acquired by the model acquisition means *based on the selection information acquired by the selection information acquisition means* as additionally required by claims 17-20. Similar comments apply to claims 25-28 and 51. This admitted deficiency with respect to the selection information acquisition means, and necessarily following deficiencies with respect to subsequent limitations which perform based on the output of the selection information acquisition means, are not resolved by the APA.

Page 6 (last paragraph) of the Office Action describes that there are multiple variations in Hanselmann. However, Hanselmann does not teach deletion and generation to generate an intermediate model from the multiple variations based on the selection information.

Applicant therefore respectfully requests that the pre-appeal panel find that the application is allowed on the existing claims.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Raymond Y. Mah
Reg. No. 41,426

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100